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INDETERMINATE SENTENCE, RELEASE ON PAROLE AND PARDON

(Report of the Committee of the Institute¹)

EDWARD LINDSEY, Chairman

No new indeterminate sentence act has been passed by the legislature of any state during the past year nor has there been any change or amendment to such acts as are now in force. But few changes or amendments have been made to the parole acts. Comparatively few legislatures met during the current year, the larger number of states having biennial sessions of their legislative bodies. It would seem, however, that the fact of the country being at war, and that because of war, unusual conditions prevail, has caused a quite general feeling that the time is inappropriate for change or experiment in the criminal laws. In New York an amendment to the indeterminate sentence act of 1915 was introduced but did not pass. In Rhode Island, which has a parole system but not the indeterminate sentence, an act providing for indeterminate sentences was introduced but not reported out of committee and we are advised that one reason was that the administration of the act would require the creation of a new office, a parole agent, and it was thought inadvisable to add to the salary list at the present time. Allowing, however, for the sentiment that change is inadvisable under war conditions there seems to be a strong tendency in those states that have already passed indeterminate sentence or parole acts to observe the operation and effect of those acts for a time before further experimenting. Thus in Rhode Island we are told that the main reason for not pushing the proposed indeterminate sentence bill was that it was considered better to test the operation of the parole act of 1915 for a while longer than to launch another experiment at this time. The few changes that have been made are as follows:

Arizona

In Arizona the indeterminate sentence and parole act of 1911 has been amended. The most notable change, we are advised, is the creation of a new Board of Pardons and Paroles, which consists of

¹The personnel of this committee was as follows: Edward Lindsey, Warren, Pa., Chairman; Frank L. Randall, Boston, Mass.; Edwin M. Abbott, Philadelphia; Edith Abbott, Chicago.

the attorney general, the superintendent of public instruction and a citizen member who acts as chairman. The board has power to recommend paroles, commutations and pardons to the governor. We have not yet been able to obtain the text of the amendment, but attach in the appendix to this report the answers to our questionnaire which we have received from the parole clerk covering the law as amended and now in force for comparison with our report for 1912.

Georgia

In Georgia we are advised by our correspondent that while there is no indeterminate sentence act, there was a parole act passed at the extra session of the legislature of 1908, which had been overlooked and not heretofore reported to us. This act confers authority upon the Prison Commission "to establish rules and regulations under which prisoners within the penitentiary may be allowed to go upon parole outside the confines of said penitentiary, but to remain within the legal custody and under the control of said Prison Commission and subject at any time to be taken into custody on order of said commission." The act provides that no parole or conditional pardon shall be granted any prisoner until he shall have served at least the minimum sentence fixed by law as punishment for the crime of which he was convicted; no parole, however, may be granted to any prisoner serving a life sentence for treason, arson, rape or assault with intent to rape, nor to any prisoner serving a life sentence for any other crime until he shall have served at least ten full years under his sentence. The commission has power to prescribe rules and regulations under which applications for parole or conditional pardon shall be made and heard and also the terms and conditions of the parole. The parole is granted by the governor on the unanimous recommendation of the commission if he approves of the same. The prison record of the prisoner and his history before the conviction for crime must be considered by the commission, and before recommending a parole it must have satisfactory evidence that if released the prisoner will be given honest employment with a good home and that if he is unable to work he will not become an object of public charity. The prisoner may be arrested at any time upon order of the commission, which order has the force of a criminal warrant, and returned to the penitentiary to serve the remainder of his original sentence, in the calculation of which the time paroled may or may not be counted in the discretion of the commission.

The act further provides: "That after said paroled prisoner shall have served at least twelve months of his parole in a satisfactory manner and together with his history before the commission of the crime for which he was sentenced, and his prison record, shall have thereby convinced said Prison Commission that he is worthy of being restored his citizenship, and that he will not again commit crime and his final release is not incompatible with the safety of society, said commission may, upon its own motion, after having so made diligent inquiry and investigation, recommend unto the governor that said prisoner be fully pardoned and his citizenship restored unto him, and if said recommendation is thus approved by the governor, a full pardon shall be granted upon executive order. That, unless said Prison Commission, upon its own motion, without outside interference or suggestion, make said recommendation for a full pardon, the said prisoner shall serve out the full term of his sentence as a paroled prisoner. It shall be the duty of said commission to keep in touch with said paroled prisoner and require him, by suitable rules, to report himself to said commission at such stated periods as will enable the commission to ascertain his record while a paroled prisoner." Further details of the system may be found in the appendix.

Louisiana

Louisiana, in 1916, repealed her original parole law and passed an act providing for indeterminate sentences applying to all persons sentenced to imprisonment in the state penitentiary or at hard labor otherwise than for life, or where the maximum term does not exceed one year, or persons convicted of treason, arson, rape, attempt to commit rape, crimes against nature, bank and homestead officials misusing funds of depositors, notaries public who are defaulters, train-wreckers, kidnapers and dynamiters. It is the duty of the trial judge to impose an indeterminate sentence, "the minimum of which sentence shall not be less than the minimum term of imprisonment fixed by the statute under which such person shall have been convicted and the maximum not more than the maximum fixed in such statute; provided, that where no minimum term is fixed in such statutes said minimum term shall be taken and intended as being one year." A companion act was passed at the same session to provide for the parole of prisoners sentenced under the indeterminate sentence act. A Board of Parole was created to consist of three members to be appointed by the governor. This board has power to determine when and under what circumstances a prisoner sentenced to an indeterminate sentence

shall be paroled. The act provides that the parole board shall appoint a parole officer for each congressional district of the state who shall serve without compensation and adopt a uniform system for the marking of prisoners "by means of which shall be determined the number of marks or credits to be earned by each prisoner as a condition of release on parole and such other regulations as may be necessary for the carrying out of this act." Each prisoner may, a month prior to the expiration of the minimum term of his sentence, make application to the board in writing for a parole. It is then "the duty of said Board of Parole, immediately upon the filing of said application, to enter into the investigation of the conduct of said prisoner during his term of imprisonment and if upon investigation it shall be found that the prisoner has, under the rules and regulations of said Board of Parole, become entitled to discharge from imprisonment upon parole, this board shall order the release of said prisoner from imprisonment at the expiration of the minimum term fixed in the sentence." If refused, the application may be reconsidered at any subsequent period not less than six months. It will be noted that the conduct of the prisoner during his incarceration is made the sole criterion of whether he shall be paroled or not and that by a rigid system of marks or credit, so that this whole parole system is nothing more than a reward for good behavior during confinement.

By a further section of the act amended and re-enacted in 1918, it is provided that the parole shall expire only with the expiration of the maximum term of imprisonment fixed in the sentence unless the Board of Parole shall, in its discretion, reduce the term thereof; that every prisoner paroled shall be required to promise to keep the peace and be of good behavior until the expiration of his parole and for violation thereof the parole shall be revoked, "which revocation, placed in the hands of any sheriff, shall be sufficient warrant for the arrest and return of said paroled prisoner to the penitentiary there to serve out the whole term for which said parole was given, subject to the deduction of the time which he had served prior to said parole and to any commutation for good behavior that he shall thereafter earn." By act of June 18, 1918, it is provided that any prisoner eligible to parole under the act of 1916, may be paroled when he has served as much as one-fourth of the minimum term of his sentence, but not less than one calendar year, "and who has by particularly meritorious service and highly exemplary conduct earned and is entitled to additional or double commutation of time for diminution or reduction of sentence as provided by law."

Maryland

By act of April 10, 1918, the Maryland legislature provided that it shall be the duty of the Advisory Board of Parole "to collect all information that may aid it in determining the advisability of recommending to the governor the conditional pardon of any person sentenced under the laws of Maryland, and whenever said board shall, upon examination, be of the opinion that both the interests of the state and interests of any prisoner sentenced under the laws of Maryland would be best subserved by a conditional pardon it shall be the duty of said board to lay before the governor for his consideration these facts and circumstances which induced their conclusion in that respect. It shall be the duty of said board to investigate and to collect all information that may aid it in determining the advisability of recommending to the governor the conditional pardon of all persons sentenced for one year or more to the Maryland penitentiary or to the Maryland House of Correction upon the expiration of one-third of the term for which each of such persons has been sentenced. And such investigation shall be made by the said board of its own initiative without the necessity of any application by or on behalf of any of such persons. It shall be the duty of the governor to act upon the same within sixty days after the receipt of any recommendations from the Advisory Board of Parole." By another act a salary of \$1500 per annum is provided for members of the parole board and they may appoint a secretary at \$1500 salary, and not more than four parole officers at not to exceed \$1200 salary. Other persons to serve as parole officers, without pay, may be appointed by the board.

EDWARD LINDSEY,
EDWIN ABBOTT,
Committee.

APPENDIX

QUESTIONS

1. Who may be committed under the indeterminate sentence?
2. Provisions for maximum and minimum term.
3. Parole board.
4. Duties of parole board.
5. Regulations of petition or argument.
6. Prisoners eligible to parole.
7. Points considered in granting parole.
8. Conditions of parole.
9. What constitutes violation of parole?

10. System of arrest for violation of parole and fee attached thereto.
11. Penalty for violation of parole.
12. Conditions for final discharge of prisoners from parole.
13. How paroled prisoner is finally discharged.
14. Number of violations of parole.
15. Extent of parole system.
16. Number of prisoners now under parole.
17. Note. Miscellaneous remarks. Special provisions.

ANSWERS

Arizona

1. All persons convicted of felonies, except first degree murder, treason, and train robbery.
2. The trial judge has authority to fix minimum and maximum.
3. The attorney general, superintendent school instruction and a citizen member who acts as chairman.
4. To meet quarterly and consider applications for parole, commutation, or pardon. The board meets monthly.
5. Petitions may be filed and persons may appear before the board. Very few appear before the board in argument.
6. Every prisoner is eligible for parole after judgment has been rendered by the court.
7. Good conduct, efficient service, together with the recommendation of prison officials who feel satisfied the prisoner has acquired the necessary self-control to live a straight life.
8. Taboo drink, bawdy houses, and obey the law at all times.
9. Violation of the law, drinking to excess, etc.
10. Under warrant issued by any member of the board, parole clerk, or prison warden.
11. Revocation of parole.
12. By pardon or expiration of sentence.
13. As above.
14. Thirteen for the fiscal year 1918.
15. No answer.
16. On June 1, 1918, Arizona had 493 prisoners on parole.
17. No answer.

Georgia

1. No indeterminate sentence act.
2. No indeterminate sentence act.
3. State Prison Commission.

4. Prescribe rules under which applications for parole or conditional pardon shall be made and heard; examine and consider history of prisoner before commission of the crime and his prison record and report to governor with recommendation whether or not a parole or conditional pardon be granted; keep in touch with paroled prisoner and require him to report, and after twelve months if convinced that final release is not incompatible with the safety of society recommends on its own motion to the governor to grant a full pardon.

5. No answer.

6. Prisoners in state penitentiary, except those serving life sentence for treason, arson, rape or assault with intent to rape, after serving minimum term fixed by law for crime for which convicted, but all serving life sentence who are eligible to parole must serve at least ten full years.

7. Prison record and history before conviction for crime and satisfactory evidence must be furnished that if paroled prisoner will be given honest employment with a good home and will not become an object of public charity if unable to work.

8. Fixed by prison commission.

9. Not specified in act.

10. Prison commission may issue order for re-arrest of prisoner at any time, which order shall become a criminal warrant in the hands of any arresting officer in the state.

11. Service of remainder of original sentence and time paroled may be counted or not at discretion of commission.

12. Recommendation to the governor by prison commission on its own motion upon being convinced that paroled prisoner is worthy of being restored to citizenship and will not again commit crime, and that his final release is not incompatible with the safety of society. Prisoner must have served at least twelve months of his parole in a satisfactory manner.

13. By pardon by the governor or expiration of term of original sentence.

14. No answer.

15. Prisoners in penitentiary.

16. No answer.

17. No answer.

Louisiana

1. Any person sentenced to imprisonment in the state penitentiary or at labor otherwise than for life, or where the maximum penalty does not exceed one year, or persons convicted of treason,

arson, rape, attempt to commit rape, crimes against nature, bank and homestead officials misusing funds of depositors, notaries public who are defaulters, train-wreckers, kidnapers and dynamiters.

2. The minimum of the indeterminate sentence shall not be less than the minimum term of imprisonment fixed by the statute under which such person shall have been convicted and the maximum not more than the maximum fixed in such statute; provided that where no minimum term is fixed in such statutes said minimum term shall be taken and intended as being one year.

3. Consists of three members to be appointed by the governor.

4. To appoint a parole officer for each congressional district of the state; adopt a uniform system for the marking of prisoners by means of which shall be determined the number of marks or credits to be earned by each prisoner as a condition of release on parole, and such other regulations as may be necessary for the carrying out of parole act; upon an application for parole investigate conduct of prisoner during term of imprisonment and if it has been such as to entitle him to it to grant parole and to revoke any parole for violation thereof.

5. No provision for argument; prisoner makes application to board in writing.

6. All prisoners under an indeterminate sentence who have served the minimum term, or if any such prisoner has by particularly meritorious service and highly exemplary conduct earned additional or double commutation of time as provided by law, then when he has served as much as one-fourth of the minimum term of his sentence, but not less than one calendar year.

7. Good conduct during imprisonment.

8. Keep the peace and be of good behavior.

9. Not defined in act.

10. Revocation of parole by Parole Board, which in the hands of any sheriff shall be sufficient warrant for arrest.

11. Revocation of parole.

12. Discretion of Parole Board or expiration of sentence.

13. Pardon or expiration of term of sentence or reduction of latter in discretion of Parole Board.

14. Eleven to date.

15. See No. 1.

16. About 400.

17. No answer.